Supreme Court, U.S.
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No. ——

IN THE

Supreme Court of the United States

CORNELL D.M. JUDGE CORNISH,
Petitioner,

v.

COURT OF APPEALS OF MARYLAND AND ATTORNEY GRIEVANCE COMMISSION OF MARYLAND,
Respondents.

On Petition for a Writ of Certiorari to the Court of Appeals of Maryland

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PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

1. In the information stage of a disciplinary proceeding, can Maryland, be allowed with impunity to seriously injure an attorney on "inactive status" because of a "medical disability" by unreasonably denying him a hearing to show that the disability has been removed, or where the reasonableness of the underlying "medical disability" is obviously a sham and not the result of fact findings the untruth of which the attorney was ever offered an opportunity to prove?

2. In the information stage of a disciplinary proceeding, can Maryland, irrationally, in absentia, after over five years, in the face of contrary expert evidence that is beyond any reasonable doubt, continue indefinitely to defame a Maryland attorney whose certification is essential to his livelihood in Maryland, New York State, and the Southern District of New York as a matter of state law, by a procedural rule that places an impossible legal burden on him, that perpetually disqualifies him from recertification, that condemns him to suffer the permanent and grievous loss of his property interest in his certification because of an unadjudicated disability that is a sham in all of those jurisdictions because it is based on confidential information posted shockingly and unfairly to connect his disability with the effects of alcohol, and procedurally refuse to let him appear in Maryland for a trial or a hearing of any kind, at any time or place, pre- or post-decertification to maintain his property interest or regain his certification?

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New Md. Rule 16-736 effective July 1, 2001 (See Appendix N and *Md. Law Journal*, July/Aug. 2001, pp. 42-45, 49-50). Md. Rule 4-231; Md. Rules BV1i, BV4 and BV6d(1)(Appendices I, J, K) ("old"-"present" Rules and procedures) .... *passim*

ORDERS BELOW

The present and past orders of the Court of Appeals of Maryland are printed in the Appendices A, B, C (Certiorari request Appdx. F, denied Appdx. G) D, E.

REASONS FOR GRANTING WRIT AND STAGE WHEN FEDERAL QUESTION RAISED

The June 17, 2001 Order of the Court of Appeals of Maryland (Appendix A) denying Petition For Reinstatement from Inactive Status flies in the face of the expert evidence in the record during the information stage of a disciplinary proceeding, *In re Rowe*, 73 NY2d 336, 540 NYS2d 231 (1989). It is a novel procedural rule to avoid giving Petitioner his fundamental Due Process rights as a matter of state law and the Fourteenth Amendment to the U.S. Constitution. The question could not be raised earlier in connection with this Order but Petitioner has consistently preserved his right to make this argument in this Court and the Courts below. (Appendices B, C, (Certiorari request Appdx. F, denied Appdx G) D and E) and Lodging Material.

The June 17, 2001 Order (Appendix A) flies in the face of evidence in the record, the weight of authority, contrary decisions, and the cited references during the information stage of the proceeding. *Rowe, Id.* There is a conflict between that Order and decisions and actions below in the District of Columbia, the U.S. Tax Court and the U.S. District Court of the Eastern District of New York. *See* Lodging Material of Petitioner. This argument has been preserved in this Court and the Courts below by Petitioner.

STATEMENT OF JURISDICTION

This Court has jurisdiction to review the Order pursuant to 28 U.S.C. 1254, 1257(2) and (3), 2104, 4203(b) and 1331.

U.S. CONSTITUTIONAL PROVISIONS INVOLVED

1st, 4th, 5th and 14th Amendments and Article I, Sec's 8 and 9.

STATUTES AND RULES INVOLVED

Articles 5 and 24 of the Maryland Declaration of Rights and Maryland Rule 4-231 afford Petitioner Due Process and a vested right to a trial or hearing affording him a right to appear at all stages as a matter of state law. Md. Rules BV1i, BV4a and BV6d(1) are in effect in this case. (Appendices I, J, K). New Rule 16-736 was not effective until July 1, 2001. Appendix N.

DIRECT CONCISE ARGUMENT AMPLIFYING REASONS FOR ALLOWANCE OF THE WRIT

Respondents, flying in the face a contrary expert evidence, have used a virtually new, unauthorized procedural rule during the information stage of a disciplinary proceeding. With immunity, they have unconstitutionally, in palpable error, shockingly and clearly without Due Process, as a matter of state law, used the legal fiction of a "medical disability" to assign an incorrect, defamatory and permanent "medical diagnosis" to the Petitioner and made it impossible for Petitioner to prove that it is wrong and irrational. Their summary, *ex post facto*, assignment of that incorrect "medical diagnosis", in absentia, without argument or any support in law or equity during the information stage of this proceeding, is wrong irrational, grievously harmful and defamatory. *Rowe, Id.* Thereby, they have perpetually disqualified Petitioner from ever being reinstated in Maryland, New York State and the Southern District of New York without Due Process.

STATEMENT OF THE CASE

The Order of June 17, 2001 (Appendix A), flies in the face of the expert evidence in the record during the information

stage of this proceeding. *Rowe, Id.* It is in conflict with the law and the cited federal and state cases. It illegally assigns the locus and identity of a "medical diagnosis" in an irrational and impossible way without any supporting evidence. It is made improperly off the cuff without giving Petitioner any opportunity to prove Respondents wrong. It avoids giving Petitioner his fundamental Due Process Rights, and this is a palpably clear case of error. *Eaton v. Tulsa*, 415 U.S. 697, 707, Summary reversal "should be reserved for palpably clear cases of . . . error."

BACKGROUND

This proceeding is still in the information stage, when Petitioner retains his property interest in his license. *In re Rowe*, 73 NY2d 336, 540 NYS2d 231 (1989). The expert evidence in the record clearly supports the fitness to practice and the lack of disability in the Petitioner. There is no expert evidence in the record in support of a "medical disability" in Petitioner. Petitioner was assigned a virtual "medical disability" by a legal fiction for which he was legally granted an unconditional "inactive status". It is a well established legal precaution taken by the Court to protect the public during the informational stage of the proceeding. The state is not authorized to invent the expert "medical diagnosis" for that "medical disability" or make it permanent during this stage. The state is not authorized to assign a locus of a "medical disability" without expert evidence to back it up. The "medical diagnosis" requires expert testimony, all of which supports Petitioner's lack of disability. It was only by a legal fiction that the disability was allowed to rest virtually in him. In fact, the "medical disability" was clearly and palpably located elsewhere. The rules do not require Petitioner to identify the locus of the "medical disability" at this stage, although he did. It is irrational to "assume" that an actual "medical disability" *always* resides in the attorney who is assigned the "inactive status" because of a "medical

disability. Sometimes the locus is *not* in that attorney. Sometimes it resides in another location. Expert testimony is required to sort this all out. It is available in the record of this case in Md. and to this Court therefrom. The "medical diagnosis" given by the June 17, 2001 Order conflicts with the facts.

The Order of June 17, 2001 irrationally assumed an impossible locus and "medical diagnosis" for a hypothesized "medical disability" that defies and is in conflict with the laws of physics, chemistry, medicine and psychiatry. That Order invented the "medical diagnosis" and assumed that the locus of the "medical disability" was in Petitioner, when that is impossible. Therefore, the refusal to grant Petitioner a summary reinstatement, or a hearing to prove that the Respondents' "medical diagnosis" and their assumption of the locus of the "medical disability" are irrational and false is unconstituional as lacking in Due Process under the 14th Amendment.

Moreover, the Order of June 17, 2001 irrationally assumed that the "medical disability" was and is permanent, when that also is an impossibility.

FACTUAL STATEMENT

The current well established procedure during the information stage of a disciplinary proceeding, permits a "medical disability" to be virtually and tentatively assigned to Petitioner without a "medical diagnosis" by a legal fiction. *In re Rowe, Id.* No expert evidence is required to support a hypothetical "medical disability" or the locus of an actual "medical disability" at this stage. The law allows the Court to virtually assign Petitioner the "medical disability" even though, in fact, it doesn't exist or resides elsewhere. This is a well recognized, long established legal fiction to take care of the infinite number of possibilities that exist for medical disabilities. It allows for the uncertainty in medical

diagnosis, the errors that are frequently made, and the possibility of clarifying the status and locus of the disability at a future date. It is all quite tentative. It is designed to be a highly adaptable and flexible procedure for protecting the confidentiality of "medical disabilities". It is a legal precaution. It allows an attorney plenty of room for his specific case, since he is allowed to be an initiator of a "medical disability." In this case, Petitioner offered a truthful, unilaterally, originally signed request for consideration of his original language that was not originally signed by Bar Counsel. The proposed confidential language for consideration, signed originally only by Petitioner, proposed that the Court assign him a temporary, tentative, unconditioned, unidentified, virtual "medical disability" so that he could get a hearing to clarify the disability; terminate a relationship with the authorization of the Court; increase the time available to get a Maryland admitted non-alcoholic lawyer; identify himself truthfully as a non-alcoholic, non-recovering alcoholic who participated in Al-Anon family groups; demonstrate affirmatively the Petitioner's compliance with the Rules of Professional Conduct, and assist the Court in better understanding the factual issues involved and the reasons why the Petitioner did not violate any disciplinary rules. It was *not* necessary at this point to offer any so-called *Kersey* defense of mitigating factors. *In re Kersey*, 520 A.2d 1038 (D.C. 1994). No *Kersey* like factors were involved, such as chronic depression, drug addiction, mental illness, and alcohol abuse. Indeed, the locus of the "medical disability" was not in Petitioner at all. It was elsewhere, as was clearly pointed out by the Petitioner. Appendix M and Petitioner's Lodging Material. This is not the litigation stage. This is the informational and cooperation state. This is when the Al-Anon program calls for an admission of powerlessness. Appendix L says to him, "I'm from the Attorney Grievances Commission and I'm here to help you." In response, the attorney says, "I admit that at the present time

I'm unable and have no desire to cope with the demands on me; may I help by becoming inactive?" Appendix M.

The "diagnosis" for so-called "medical disabilities" is frequently unknown. The disability may be trivial, short lived, sudden, *imagined*, inopportune, or easily cured by surgery. It may be in the past, in remission or abated in the case of non-alcoholics. The disability may be like a short memory loss, that causes decertification without a trial for failure to keep current with the Clients' Security Trust Fund. This can be abated by regular payments. The disease of alcoholism cannot be abated. The cause of alcoholism is unknown. The effects are diverse. Therefore, the law allows an attorney a right to initiate his request for a "medical disability", referred to, and in this case, as an unconditioned "inactivity status". This was the legal status assigned to Petitioner by the Maryland Court of Appeals on December 5, 1995. Appendix E. He achieved this legal status ("inactive status" in Maryland, and reciprocal "suspension" in New York and the Southern District of New York), via the disciplinary rules of Maryland. His original, unilaterally-originally signed petition was approved by the Court to enable the Court to determine the whole record. "It is a necessary precaution taken by the court to protect the public and further its confidence in and reliance upon the integrity of the legal profession." *In re Rowe*, 73 NY2d 337, 540 NYS2d 231 (1989). There was no trial or hearing. There was no expert evidence. Only an unsworn request under the 1st Amendment. The Court granted his request for unconditioned "inactive status" and "such other and further relief as the nature of the case may require". It was "Granted", with the consent of Bar Counsel who had graciously promised Petitioner a face-to-face hearing. As in all matters relating to his certification under the existing Rules, the Petitioner has no *power* to achieve, and the Rules do not offer, any alternative to discipline. Appendices I, J, K. There was no "diversion", under new Rule 16-736. Appendix N. The assignment of an

indefinite, unconditioned "inactive status" did not alter the informational stage of the proceeding. It did not destroy his property interest. It did not destroy his 1st Amendment right to petition for redress of his grievance that he didn't get the hearing that he was promised. Still further, it gave him the unrestricted, immediate right to ask for a reinstatement hearing with the confident expectation that he would get it to present prima facie proof, by clear and convincing evidence, that the disability was abated by surgery in 1982. An abated disability no longer has a locus in the Petitioner, and he could prove it. Alternately, he could without any reasonable doubt, prove that the Respondents were wrong in a face-to-face hearing, which he was entitled to by Due Process, to answer their charge that he was disabled in fact by alcoholism. It allowed him to retain his protected property interest in his license during the informational period of his "inactive status" in Maryland, and his suspension in New York and the Southern District of New York. *In re Rowe*, 73 NY2d 942, 540 NYS2d 233 (1989). In accord, is *In Matter of Walker*, 675 NYS2d 68 (1998). All he needed was an opportunity to show abatement of his "medical disability" and the facts upon which that was dependent, or, in the case of a charge of disability, that the charge was untrue and back that up with the expert evidence to prove that it was untrue.

Without any expert evidence to back it up, the Court in its supreme discretion in such matters, tentatively "disciplined" Petitioner solely for an unknown "medical disability" under their rules by decertifying his name from the list of attorneys before the Court, as described in their Dec. 5th 1995 Order. Petitioner notified the Client's Security Trust Fund with an affidavit of inactivity. The Order was based solely on the possibility of a temporary, virtual, unadjudicated, "medical disability" (albeit while he was under investigation for ethical misconduct) which the uncontradicted medical evidence shows has been abated." *See* Lodging Material of Petitioner. Unlike a disbarred attorney, or one suspended for ethical

reasons, this decertificaton did not change his vested right of property and privilege in his license to practice law. *In re Rowe*, 73 NY2d 336, 540 NYS2d 231 (1989). Accord, *In Matter of Walker*, 675 NYS2d (1998), where the "medical disability" was from an inopportune car mishap. It did, however, suspend the *possession* of his property in the certification of his name on the rolls of attorneys in the Court of Appeals. To this end, without any trial or expert evidence to support it, "this" Court of Appeals "Ordered the Clerk of this Court to remove his name from the register of attorneys in this Court". As stated in *Rowe*, *Id*, "The suspension is not a punishment or sanction; it is a necessary precaution taken by the court to protect the public and further its confidence in and reliance upon the integrity and responsibility of the legal profession." It also protects the Petitioner's property and his 1st Amendment right to petition for relief from his grievances. The *Rowe* Court also said, "In addition, unlike a disbarred attorney, an attorney suspended because of medical disability retains a protected property interest in his license during th period of suspension." This status has the entirely reasonable characteristic of all protected property, tangible and intangible. That is, the protection of the property interest is not lost during the "medical disability." The possession is merely taken into a kind of *custodia legis*, which protects the property interest by a legal fiction during the suspension. Petitioner is like other decertified attorneys having an assigned "inactive status" in Maryland, and reciprocal "suspensions" in New York State and the Southern District of New York). He retains his protected property interest in his license during the period of legally assigned inactivity. This status is fully discussed in *In re Rowe*, 73 NY2d 336, 540 NYS2d 231 (1989). The Court of Appeals of New York State, in reversing the lower court, clearly pointed out that the attorney had a well defined, clearly settled, vested and protected property interest in his license during this informational period of his suspension. "Inasmuch as

petitioner was suspended (sic "disciplined") because of a disability and his application for reinstatement presents prima facie proof, by clear and convincing evidence, that the disability had been removed, *due process* (emphasis added) *requires* (emphasis added) a hearing to resolve that question of fact, and to enable the court to determine on the whole record whether he is fit to practice law." *Rowe, Id.*

The Order of June 17, 2001 ignores the prima facie proof in the record. It ignores the overwhelming clear and convincing evidence in the record. It uses a new procedural Rule 16-736, not effective until July 1, 2001, to avoid giving Petitioner his fundamental Due Process Rights. Without his Due Process rights, Petitioner can never prove that the Respondents are wrong. Without authorization or any expert evidence in support of their position, it classified Petitioner as a Probationer Before Judgement. This perpetually disqualifies Petitioner from practicing law in Maryland, New York and the Southern District of New York based on a sham. It places him under a legal burden, discipline, penalty and classification he has no means of avoiding. It was irrational to deny his request for a hearing to spur his recovery from a disability he doesn't have. It is an unadjudicated disability known at the outset to be a *pretense*. It condemns him to suffer a permanent, grievous loss of his certification to practice that is *essential* in the pursuit of his livelihood, and seriously damages his standing and associations in his community. It was *defaming* to *post* an irrational denial of his petition for recertification as a matter of state law in the face of certified, conclusive, judicially noticed evidence of his fitness and lack of disability.

Respondents have used a new procedural rule not yet effective in this case to avoid giving Petitioner his right to Due Process as a matter of state law under the First, Fourth, Fifth and Fourteenth Amendments. It also avoids giving him his Property, Privilege and Liberty Rights.

WHY THE WRIT IS NECESSARY TO AVERT GRIEVOUS INJURY AND DEFAMATION IN TWO STATES

It is uncontested that this proceeding is in the informational stage. The Petitioner has a vested right to Due Process as a matter of state law to prove that he should regain his certification on the rolls of attorneys before the Maryland Court of Appeals. It is uncontested that he has a vested Due Process right to a post-decertification hearing to regain his certification, which is essential to his livelihood as a matter of state law. Therefore, it is unconstitutional to use a new procedural rule not yet in effect to avoid granting him his request for a summary recertification without a hearing. The denial was based solely upon an unauthorized procedural rule to spur Petitioner to rehabilitate himself from a disability he doesn't have. He cannot recover from a disability he doesn't have. The disability is a sham. It is a legal fiction. The denial is based on a new judicially announced procedural rule without authority under existing state law. It is not authorized under the old or the new Rules effective July 1, 2001. It sets up a legal burden he has no means of avoiding. The spur to rehabilitation is a sham. Denying him a hearing, therefore, perpetually disqualifies him from practice. It condemns Petitioner to a permanent denial of a recertification because of a sham to avoid giving him his rights of Due Process. It alters his status and is unconstitutional on its face. The sham defames him to a grievous loss in absentia, without a hearing because of an unadjudicated disability in connection with alcohol in the face of incontestable, certified, judicially noticed, clear and convincing evidence, arrived at after a full adversary trial, under the burden or proof standard used in Maryland in disciplinary proceedings. The proof is under no reasonable possibility of doubt. It is judicially noticed as a fact and a conclusion of law that he is fit to practice and without disability. Evidence of this judicially noticed proof is

available to this Court via the record in Maryland. See the Lodging Material For Petitioner, which is attached hereto.

This request for Certiorari to review the June 17, 2001 Order of the Court of Appeals of Maryland, which irrationally, shockingly, insensitively and unfairly uses unauthorized procedural rules to avoid giving Petitioner his fundamental Due Process right to a hearing to recertify his name and unabandoned servicemark as an attorney before their Court of Appeals, focuses primarily on why the Order violates his Due Process rights as a matter of state law. The Order relies on a procedural rule not yet in effect that places a legal classification on Petitioner that is a sham. It is a sham to classify him as a Probationer Before Judgement, akin to the criminal arena. It spurs him to rehabilitate himself from a disability he doesn't have. In so doing, it perpetually disqualifies him from recertification. It sets up a legal burden that he has no means of avoiding. It irrationally, shockingly and unfairly condemns him to permanent banishment and exclusion from practice for a disability he doesn't have. It *defames* him by *posting* an unadjudicated disability. It *posts* his confidential *words* in a proposed petition for temporary "inactive status." They are used irrationally. By incorrectly classifying him and placing him under a legal burden to spur him to rehabilitate himself from a *real* and *permanent* disability he doesn't have, it punishes him as a "Probationer Before Judgement", which he isn't. It alters his status, and sets new timing and conditions for the termination of his inactivity unnaturally and in the future. And according to the terms and conditions of this classification, he is bound to be permanently disqualified, banished and permanently excluded from ever practicing in Maryland, New York, and the Southern District of New York. They require reinstatement in Maryland first as a condition precedent to recertification in those jurisdictions. And the Maryland procedure is based on the Petitioner's own *confidential words* that clearly show that he is not addicted to alcohol. Shockingly, and unfairly, these

confidential *words* were freely *posted* and shared with other jurisdictions before his decertification became final. The *words* were not part of a plea bargain to obtain "inactive status." They didn't place him in the position of seeking a result as a Probationer Before Judgement. They were part of his unedited, pure speech in a unilaterally, originally signed, redacted petition for consideration in a public forum under the 1st Amendment. The rules allowed it as a necessary precaution taken by the court to protect the public and further its confidence in and reliance upon the integrity and responsibility of the legal profession. It allowed Petitioner to demonstrate affirmatively his compliance with the Rules of Professional Conduct. It allowed him to help the court understand the factual issues involved and why he had not violated any disciplinary rules. It also allowed Petitioner to terminate a relationship with a churlish client; to gain the sanction of the Court to this termination, and, thus, to protect an ex-client's interests. It gained time to find a Maryland admitted attorney. Above all, it enabled the court to determine on the whole record whether Petitioner is fit to practice law. To this end, it allowed Petitioner to obtain a hearing to quash any thought that Petitioner had a disability because of alcohol. It enabled him to prove that his *words* were truthful, but used by the state unjustly and unfairly to cause him *grievous* harm. It enabled him to prove that Respondents used his *words* irrationally to *defame* him shockingly and unfairly with no benefit to the administration of justice or the protection of the public, all without Due Process as a matter of state law. Even a parolee has Due Process Rights. *Morrissey v. Brewer*, 408 U.S. 471, 481-482 (1972).

One needs to have a rudimentary knowledge of the Maryland disciplinary system and the facts of this case to understand how Petitioner's fundamental rights were avoided by an unauthorized procedural rule. The July/August *2001, Maryland Bar Journal*, p.42, 44 refers to New Rule 16-736

(Appendix N). It refers to a new optional tripartite prior agreement, lacking in this case. It *classifies* a hypothetical Respondent in a disciplinary case as a Probationer Before Judgement. Under the new Maryland Rules not effective in this case, this legal *classification* refers to a hypothetical tripartite agreement between a Respondent attorney, Bar Counsel, a monitor if appropriate, and the Attorney Grievance Commission of Maryland as to how to satisfy the terms of an "inactive status." Such an agreement is only possible on or after July 1, 2001, when new Rules became effective. Thus, it was never proposed, let alone possible in this case. Instead, the June 17, 2001 Order substituted the new rule for the "old" procedure. The new *classification* was placed on Petitioner without an agreement to spur his rehabilitation from a disability he didn't and doesn't have. The legal burden created was based on a sham disability. To this end, on October 11, 1995, an investigator was told by Bar Counsel that "it appears that Respondent shouldn't be practicing law and I need some confirmation from you and perhaps testimony at the Inquiry Panel." On October 12, 1995, Bar Counsel "referred Respondent to Mr. Vincent in view of what he said was "Respondent's admitted alcohol problem" without any supporting evidence. Neither Mr. Vincent nor the investigator ever turned up any support for the theory that Petitioner was an alcoholic or a recovering alcoholic or that he ever admitted that he had any of these disabilities or asked for "inactive status" because of these disabilities. The trademark "Al-Anon" was confused with the trademark "AA". On October 18, 1995, knowing at the outset that there was no evidence that Petitioner was an alcoholic, Bar Counsel sent a proposed joint petition to Respondent for his approval in which it was stated that, "3. During the course of our investigation Respondent has advised that . . . he participates in Al Anon [sic Al-Anon] attending three (3) or four (4) meetings a week as well as meeting with a sponsor." The sham is obvious because Al-Anon is a famous trademark for

groups of *non-alcoholic, non-recovering* friends and family of alcoholics, whereas "AA" is a famous trademark for groups of alcoholics and recovering alcoholics. And, Mr. Vincent is the Lawyer Assistance Program's alcoholic counselor. In speaking with Bar Counsel on October 30, 1995, and again in writing on October 31, 1995, Petitioner asked for a mini-trial to straighten out this conflict. Bar Counsel orally agreed to this request. On October 31, 1995, Bar Counsel wrote a Memorandum confirming that Petitioner had not signed or sent to Bar Counsel the Petition for consent to inactive status that he had sent to Petitioner on October 18, 1995. He also confirmed that Petitioner had asked to sit down with Bar Counsel and Petitioner's counsel, and "face-to-face resolve the matter." Bar Counsel recorded Petitioner's request for a trial and that Bar Counsel would comply with the request for a face-to-face hearing. Bar Counsel said in his Memorandum, that he would be "happy to sit down after his inactive status is resolved". He was not so much concerned with an ethical complaint as much as with Petitioner's physical condition. In the Panel Memorandum of October 11, 1995, to the Hearing Panel that was appointed on November 9, 1995, Bar Counsel charged that, "It appears to me that the Respondent needs to be heard to determine whether he is competent as defined by Maryland Rule BV1i by reason of addiction to alcohol." It is *required* by its Rules to make a decision within 15 days to give notice to the Respondent of the time and place of the hearing, dismiss, dismiss with a warning, recommend a reprimand, or recommend that charges in the Court of Appeals be filed against the Respondent. If they don't file charges, notify the Respondent of the time and place of his hearing before the Hearing Panel, dismiss, dismiss with a warning, or recommend a reprimand, the Respondent is no longer required to act like a Respondent. The *Hearing Panel*, is also referred to as the screening or *Inquiry Panel*. After July 1, 2001, it is abolished under the new rules. Under the old rules

he was not prevented from becoming and acting like a Petitioner for the grievance of not receiving a hearing that he requested and that Bar Counsel in this case promised him. But the hearing never ever came to be. Petitioner prepared his own redacted, original Petition for redress of his grievance under the 1st Amendment, that he didn't get the requested hearing. He sought to terminate his relationship with a churlish client and get the approval of the termination from the Court of Appeals. Also, he wanted time to gain a Maryland admitted attorney to represent him in Maryland instead of his D.C. lawyer. He was hired to represent him only in D.C. (albeit he volunteered to be a conduit in Maryland). It is uncontested that Petitioner has a vested right as a matter of state law to ask for temporary "inactive status" with the expectation of getting an immediate summary recertifictation because he could prove that he wasn't addicted to alcohol. The Petitioner's rights and options to ask for and receive summary recertification, or a hearing for the granting or denial of his recertification are well recognized, and well established as a matter of state law. This includes his Due Process right to notice of the time and place of the hearing if he is not summarily recertified. It is irrational, shocking and grossly unfair to *perpetually* disqualify Petitioner from recertification by a procedural rule that avoids giving him his fundamental Due Process rights as a matter of state law. It condemns Petitioner to a *permanent* denial of such a summary reinstatement or hearing as a matter state law without Due Process. It is *irrational* to do so in view of the judicially noticed finding of fact and conclusion of law in the District of Columbia that Petitioner is fit to practice and without disability.

Petitioner was set up for a sham legal classification by Bar Counsel on October 11, 1995, when in his Panel Memorandum to the Hearing Panel, he said that Petitioner "needed to be heard to determine whether he is competent as defined by Rule BV1i by reason of addiction to alcohol." But

Petitioner was procedurally denied such hearing to prove the charge untrue. He never was able to get a hearing of any kind, at any time or place in Maryland to prove the charge untrue, as to any disability because of alcoholism, or any other disability. He never by agreement, adjudication, plea bargain, Alford plea, Brady waiver or any other kind of waiver or forfeiture was adjudicated to have a disability or to admit that the charge was true. Bar Counsel never pleaded immunity from the requirements of Due Process or lack of Property, Privilege, or Liberty as a matter of state law. He never pleaded immunity from Due Process because of waiver or forfeiture of Petitioner's constitutional rights; preclusion, estoppel; res judicata; finality; regularity; administrative need; the state action doctrine; policy concerns for deterrence; or to protect the public interest. The Court without argument, in absentia, without a trial at any time or place, procedurally and summarily avoided giving Petitioner his fundamental rights. See *Green v. McElroy*, 360 U.S. 474, 496-497 (1959). Summary reversal is an appropriate remedy when the error is clearly palpable. *Eaton v. Tulsa*, 415 U.S. 697 (1974). There is no novel constitutional question involved. *Penn v. Mimms*, 434 U.S. 106 (1977).

Bar Counsel said Petitioner "needed" to be heard. Then he recommended several times that Petitioner's request for the adjudication be procedurally denied. In clear conflict with this recommendation to deny Petitioner's request, the Court on June 17, 2001 judicially noticed proof of facts in a state Order beyond any reasonable doubt that Petitioner was fit to practice and not disabled. But the Court inconsistently, in conflict with the weight of authority, this judicially noticed state Order, and a contrary federal Order by the U.S. Tax Court, *denied* the request for recertification based on a procedure invented out of thin air. The procedure invented a legal class that identified Petitioner as disabled because of alcohol. This is a legal burden Petitioner has no way of *satisfying*. Even certified judicially noticed proof of

Petitioner's lack of disability didn't *satisfy* the Court. It comprised both a U.S. Tax Court Order in 1996, which was the result of a hearing and an investigation, and a certified state record published in 2000 by the District of Columbia. Both provide clear and convincing proof of the adjudication of Petitioner's lack of disability using the same standard for the burden of proof and for proceeding with the evidence that is used in Maryland. The District of Columbia Court of Appeals found as a fact that Petitioner is fit to practice and does not have a disability. See Lodging Material.

The June 17, 2001 Order perpetually disqualified Petitioner from practice by procedurally setting in concrete a sham legal classification. It is based upon a legal classification that violates the laws of nature, physics, biology and medicine. It is *irrational.* And it is *irrational* to *post* Petitioner's reference to Al-Anon in his petition for "inactive status" as implying that he is an alcoholic or a recovering alcoholic or that he attended "AA". It is *irrational* to require him to be rehabilitated for alcoholism "in view of his attendance at Al-Anon." And yet that is what the Respondents did in this case. It is facially unconstitutional to immunize the State of Maryland from Petitioner's well-established, long-standing, uncontested fundamental Due Process right to a hearing as a matter of state law. Moreover, as discussed in more detail below, it violates other rights of Property, Privilege and Liberty, as a matter of state law.

Due Process for attorney discipline was recognized in *Atty. Griev. Com'n v. Reamer*, 281 Md. 323 (1977). In *Attorney Grievance Com'n v. Brewster*, 280 Md. 473 (1977), it was said that lawyers are not second class citizens. "They are as much entitled to due process of law and fundamental fairness as other citizens", citing *In re Ruffalo*, 390 U.S. 544 (1968).

In re Ruffalo, 390 U.S. 544, 550-551 (1968); and *Bar Association v. Cockrell*, 274 Md, 279, 286-87 (1975), are in agreement. Lawyers are entitled to Due Process. *Ruffalo, Id.*

was disbarred without a hearing de novo ex post facto, as a result of his testimony. It was a violation of his right to Due Process. No overriding public interest justifies a summary suspension without a prior hearing. *La. State Bar Assoc. v. Ehmig*, 277 So.2d 137 (La. 1973). An adequate post-deprivation hearing standing alone does not satisfy the due process clause of the 14th Amendment. *Plummer v. State*, 915 F.2d 927 (1990). When the only justification for a legal burden, penalty or classification is to punish or deter conduct, the burden cannot fairly be imposed on an individual who has no means of avoiding it. *In re James*, 295 Md. 314 (1983).

Petitioners participation in Al-Anon is no reason to legally classify him as a drug misuser. It is a *sham* and *irrational*. In *Barry v. Bachi*, 443 U.S. 55 (1979), the license of a trainer was unconstitutionally revoked without a hearing or Due Process on the *irrational* belief that he had misused drugs on a horse.

The June 17, 2001 denial of Petitioner's request for a hearing could not spur Petitioner's rehabilitation from a disability he doesn't have. Such a spur is a punishment not in accordance with Maryland law. It is a perpetual disqualification from practice. And his punishment has been *enhanced* by a procedural rule without basis to avoid his Due Process rights as a matter of state law. It is irrational to *enhance* his punishment for allegedly not *satisfying* the condition of his "inactive status" from an unadjudicated *sham* disability. In an analogy from the criminal law in the recent case of *Graves v. Maryland*, 364 Md. 329 (2001), it was held that even the *enhancement* of the punishment of a *convicted* sexual deviant was not according to Maryland Law. Procedural Due Process *is* required in Maryland before one acting pursuant to *confidential* information in a petition, uses it to permanently *enhance* the punishment of a denial of a right to a hearing or trial of any kind. As a matter of state law, Petitioner has a right to appear in person so as not to

continue to be deprived indefinitely of what is *essential* as a matter of state law. He has a right to alter his status to *reduce* his punishment as a matter of state law under the exception of Md. Rule 4-231 to reduce the continued *enhancement* of the punishment of his *defamation* in accordance with state law.

The parameters of Due Process were set out in *Mathews v. Eldridge*, 424 U.S. 319 (1976). In an analogy to the distant past, Due Process was available in 1860, even to a slave. *Cornish v. State*, 15 Md. 208 (1860). It was held there that the courts have no power to superadd any other punishment to the one prescribed by selling a slave out of state. In *Wammack v. Halloway*, 2 Alabama 31 (1883), it was held by the court unanimously that "the right to exercise an office is as much a species of property as any other thing capable of possession, and to wrongfully deprive one of it, or unjustly to withhold it, is an injury which the law can redress in as ample a manner as any other wrong; and conflicting claims to exercise it must be decided in the same manner as other claims involving any other right. . ." "Where the government action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue." *Green v. McElroy*, 360 U.S. 474, 496-497 (1959). In *In re Rowe*, 73 NY2d 336, 540 NYS2d 231 (1989), it was held that, "due process requires a hearing to resolve that question of fact." In *In re Anonymous*, 381 NYS2d 560, it was clear that one can make application for reinstatement if one can prove that he is competent to resume practice. And in *Application of Mairs*, 476 NYS2d 551 (1 Dpt. 1984), it was held that the courts could not foreclose the possibility of a reinstatement. As a matter of state law, that case said a petitioner *is* "entitled to a hearing where the fact of the influence of alcohol on the action leading to discipline was in question", as in this case. Surprisingly, therefore, Maryland seems to be saying to Petitioner in conflict with authority,

"That this case relates solely to the procedure for recertifying inactive attorneys under 'the influence of alcohol.'" Perhaps Respondents have in mind the Maryland Court of Appeals dicta with regard to the question of alcohol, that the "matter is both perplexing, and to a degree, disorientating". *Atty. Griev. Com. v. Bakas,* 323 Md 395 *(1991).* See also, *Atty. Griev. Com. v. Kinney,* 339 Md. 578 (1995); and *Atty. Griev. Com'n v. Vanderline,* 773 A.2d 463 (2001).

It is surprising that the Maryland Court in its Order of June 17, 2001, did not take into consideration the fact that alcohol is a serious medical condition in its effects on *non-alcoholics* and *non-recovering* alcoholic friends and families of alcoholics. That Court, again in dicta, broadly stated that, "We do recognize that alcoholism is a serious medical condition and we will be more sympathetic to attorneys who recognize the need for assistance and seek to rehabilitate themselves before their transgressions are discovered." *Atty. Griev. Com'n v. Kinney,* 339 Md. 578 (1995). Petitioner has for years been actively engaged with Lawyer Counseling. But Petitioner has done so not because he is an alcoholic. He has done so because he is "not an alcoholic." And this was known at the outset from his *confidential* participation in Al-Alon, which is a registered trademark for friends and family groups who are *non-alcoholic, non-recovering* alcoholic friends and families of alcoholics.

Under these circumstances, the Maryland Court is seemingly telling Petitioner he is permanently disqualified to be certified in Maryland. He now comes to this federal court, because of conflicting federal and state decisions. Also Maryland in conflict with authority, won't ever give him notice of a time and place of a hearing of any kind under Articles 5 and 24 of the Maryland Declaration of Rights, and Maryland Rule 4-231, which afford rights to due process and to be *present* at all stages of his trial. And, of course, Petitioner is in the middle of a reciprocal Show Cause

Hearing, MC-98-220 and CV-99-2460, going all the way back to November 19, 1998, in the District Court of the Eastern District of New York, where he has carefully preserved his constitutional rights in federal court to pursue a declaratory judgement suit. Petitioner comes here, not only because of conflicting federal and state decisions. Also, the federal court has abstained until the state court acts, and the state court abstained until the federal court acts. See Note 8 in the case of *Zauderer v. Office of Disciplinary Counsel*, U.S. 626 (1985).

Inconsistently with the Panel Memorandum of October 31, 1995, the Court on June 17, 2001 altered Petitioner's status as a matter of state law, by effectively perpetually disqualifying him and condemning him to permanent banishment from practice in Maryland, New York and the Southern District of New York because of a sham. Bar Counsel *posted* Petitioner's name to the public as one who was disabled by the effects of alcohol. Now New York State and the Southern District of New York require Petitioner to be recertified in Maryland before being recertified in those jurisdictions.

Where a person's good name, reputation, honor and integrity are at stake because of what the government is doing to him, notice and an opportunity to be heard are essential. *Wisconsin v. Constantineau*, 400 U.S. 433 (1971). In that case a person's name was *defamed* by *posting* it without a hearing to keep him away from alcohol. The same has been done in this case. And it is *irrational*. *Barry v. Bachi*, 443 U.S. 55 (1979).

Lawyers have sometimes been successful, and at other times unsuccessful in invoking Due Process rights. In *Leit v. Flynt*, 439 U.S. 438 (1979), an out-of state attorney was arbitrarily denied a right to appear *pro hoc vice* over a strong dissent because of Due Process, because he lacked in-state admission. The rationale was so that the State could require all attorneys to pass the bar in that State, as Maryland

requires. But petitioner passed the bar in Maryland as a matter of state law.

In *Konigsberg v. State Bar*, 353 U.S. 252 (1957); and *Schware v. Brd. Of Bar Examiners*, 353 U.S. 232, 238-239, note 5, (1957), a lawyer's interest in pursuing his calling was protected by the Due Process of the 14th Amendment. In *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274 (1985); and *Supreme Court of Virginia v. Friedman*, 487 U.S. 59 (1988) a lawyer's interest in pursuing his calling was protected by the Privileges and Immunities Clause. In *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977), a lawyer was said to have a constitutional right under the First Amendment to advertise because "significant societal interests are served by such speech." In *Goldbfarb v. Virginia State Bar*, 421 U.S. 773, 783-784 (1975), the practice of law was said to be now regarded as a commercial activity subject to the strictures of the Sherman Act. In *Sperry v. State of Florida*, 373 U.S. 379 (1963), patent practice was said to have been a preempted right under Article I, Section 8 and the Patent Statutes, e.g., 35 U.S.C. 101, et seq. Article I, Sec. 9, protects a citizen against ex post facto penalties, and Bills of Attainder. *U.S. v. Lovett*, 328 U.S. 303 (1946).

Petitioner asked for and was granted leave to file an *Amicus Curiae* brief in this Court in *Parker v. Chakrabarty*, 447 U.S. 303 (1980), which is a seminal intellectual property law case. He has been admitted in the U.S. Patent and Trademark Office as an attorney for over thirty years, starting in 1958. As required by 37 CFR 10.40 et seq. and 1.613 he asked for a got authorization to terminate the relationship in this case, as he did in Maryland by his proposed petition for "inactive status" to prevent his *defamation*. He is inactive in the USPTO because of his defamation by the court below.

The *defamation* of his name and reputation have been added to the *grievous* loss of a license *essential* to his livelihood he his been forced to suffer because of the

deprivation of a hearing to restore his certification. In *Bell v. Burson*, 402 U.S. 535 (1971), such a deprivation was held to be in violation of Due Process. It was held to be *essential* for a minister's livelihood and right of travel to not have his license removed without a hearing.

Petitioner's Due Process and hearing rights as a matter of state law are derived under Articles 5 and 24 of the Maryland Declaration of Rights, Maryland Rule 4-231, and the 14th Amendment. *Stewart v. State of Maryland*, 334 Md. 213, 224 (1994); *Eric Pinkney v. State of Maryland*, 350 Md. 201 (1998); and *Diaz v. U.S.*, 223 U.S. 442 (1912).

He also has a vested entitlement and a right to a summary reinstatement or notice of the time and place of his trial to prove his lack of a disability. In *Wammack v. Halloway*, 2 Alabama 31, (1883), it was held by the court unanimously, that "the right to exercise an office is as much a species of property as any other thing capable of possession, and to wrongfully deprive one of it, or unjustly withhold it, is an injury which the law can redress in as ample a manner as any other wrong; and conflicting claims to exercise it must be decided in the same manner as other claims involving any other right. . ." In *Ex parte Heyfron*, 7 Howard's Mississippi 127, it was held to be "error to strike an attorney from the roll on motion without giving him notice of the proceeding", the court saying: "It is a cardinal principle in the administration of justice, that no man can be condemned, or divested of his rights, until he has had an opportunity of being heard." In *Richards et al v. Jefferson County, Alabama, et al*, 517 U.S. 793 (1966), it was said that, "Our present concern is [solely] with the question whether the plaintiff has been accorded due process in the primary sense—whether he has had an opportunity to present his case and be heard in support." "Whether acting through its judiciary or through its legislature, a State may not deprive a person of all existing remedies for the enforcement of a right, which the State has no power to destroy, unless there is, or was, afforded to him

some real opportunity to protect it." *Id*, at 681-682. In *Ex Parte Garland*, 71 U.S. 333 (1866), a prescribed oath, which an attorney cannot truthfully sign, and which in effect fixes a disqualification from the bar in which he is an inactive member, is in the nature of a penalty or punishment. In that case, the disability came about because he voluntarily subjected himself to the liability of forfeiture of his office as an attorney during the Civil War. But after the War, he was pardoned, which wiped out both the crime and the liability to punishment, and he was restored to the rights as an attorney he possessed before the War, including the right to practice at the bar. But he was required to make an oath that he couldn't make, namely that he never voluntarily bore arms against the United States. This was held by the Court to be a perpetual disqualification to hold the office of an attorney or any other office of honor, profit, or trust. In other words, the required oath accomplished a result in direct opposition to the constitutional effect of the pardon. *In Matter of Dorsey*, 7 Porter Alabama 293 (1838), it was required that all counselors and attorneys at law should take an oath that they had never been engaged in any duel, and that they never would. It was held that this prescribed a qualification for holding office, which an individual never could comply with, and that such an act, as to him, (1) was a disqualification; (2) that such disqualification was punishment; (3) that the retrospective part of the oath was unconstitutional; (4) that as part of the oath was unconstitutional, and the court could not separate it, the oath was unconstitutional and the petitioner was entitled to be admitted without taking it. Holding Petitioner to an oath that he is an alcoholic, is one he can't make. It is a perpetual disqualification. Petitioner is entitled to be recertified without regard to his irrational legal classification as a "recovering alcoholic."

Petitioner proved his fitness to practice and his lack of disability in the District of Columbia. He was recertified in the District of Columbia after a reinstatement trial. The

certified record is available to this Court. It is part of the record in the Court of Appeals of Maryland and the District Court of the Eastern District of New York, as described in the Lodging Material For Petitioner, which is enclosed in this case. This Lodging Material includes the Report of Hal Lieberman, Esq., who was appointed by the Committee on Grievances of the Board of Judges of the EDNY Court. Mr. Lieberman's Report, which is included in the Lodging Material in this case, cited substantial reasons not to proceed against Petitioner. These include: (1) the District of Columbia's favorable conclusion as to Petitioner's fitness to practice, the lack of merit regarding the underlying complaint, and his reinstatement to the D.C. Bar; (2) the fact that the Petitioner's original order of inactivity was not based on a finding of ethical misconduct, but rather, was solely based on an alleged medical disability (albeit while he was under investigation for ethical misconduct) which the uncontradicted medical evidence shows has been abated; (3) the absence of any misconduct in connection with activities before the Eastern District of New York; (4) the passage of time; (5) Petitioner's apparently minimal to nonexistent practice before that Court; (6) his prior unblemished record [which lacked any adverse disciplinary trial]; (7) the likely expenditure of significant judicial resources on what will be, for the most part, an academic exercise given Petitioner's primary professional focus on patent law with a practice that is largely (if not exclusively) before the U.S. Patent and Trademark Office, which agency has its own licensing and disciplinary procedures, has a far greater interest in the instant matter and can more readily assess Petitioner's fitness as a patent lawyer. He thereupon recommended against filing formal charges or otherwise seeking to discipline the Petitioner. Furthermore, he recommended that the Committee had discretion, and should exercise its discretion against proceeding principally because another court of competent jurisdiction has carefully considered the evidence

and concluded the Petitioner does not currently have a medical disability that prevents him from practicing law and that there is insubstantial merit to the underlying charge. Additionally, he saw no valid reason for the Committee to force this senior lawyer to expend the considerable time and resources that will be required of him to again establish what he has just shown to be the case before the D.C. Bar, namely, that he is fit to practice law, when this latter Court has before it [as the Maryland Court does, and this Court can have on request] the full record of the D.C. proceeding and can, as Mr. Lieberman did, independently review that record in order to satisfy itself as to any concerns that may exist at this time about Petitioner's fitness to be a member of the bar of the Eastern District of New York. Simply put, he believed that the EDNY District Court should leave well enough alone by discharging their November 19, 1998 Order to Show Cause, and he so recommended. His arguments weigh heavily against the unconstitutional avoidance of a hearing in Maryland on June 17, 2001 in this case.

It has been established in *Gross* v. *Lopez*, 419 U.S. 565 (1975), that suspended students were entitled to procedural protections against unfair suspensions. In that case and this one, the state has established a "property interest" in benefits established by the state, and there are "liberty interests in reputation" that are at stake. They are implicated by the suspensions and/or the failure to reinstate. The Due Process Clause forbids arbitrary deprivations of liberty, as in this case. Where a person's interest in his good name and reputation falls within the broad term "liberty", as it does in this case, it clearly requires that the government afford procedural protection before infringing on that name and reputation, as it does in this case, by branding the person a recovering alcoholic.[1]

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[1] All the above arguments are reserved, as they are below, for latter use in case this request for certiorari is denied.

Petitioner preserves his property right against compulsory extortion of his testimony that he is an alcoholic on penalty of forfeiture of his license. An analogous forfeiture was held to violate the 4th and 5th Amendments in *Boyd v. U.S.*, 116 U.S. 616 (1866). His privilege has also been violated. *Piper* and *Friedman, Id.* Petitioner preserves this argument.

He also has a right not to be held to a forced confession that Bar Counsel originally signed the redacted petition dated 11/21/95. Appendix M. The penalty is a forced silence in violation of the 1st Amendment. This argument is preserved.

Also, he has a right to advertise and compete under the Sherman Act. See *Parker v. Brown*, 317 U.S.341 (1943); *Goldfarb v. Va. State Bar*, 421 U.S. 773, 783-784 (1975); and *Bates, Id.* Please preserve this argument.

OTHER MATERIAL FOR UNDERSTANDING THIS CASE AS PROVIDED FOR IN RULE 14(1)(vi)

The Lodging Material For Petitioner provides a concise review of the facts in this case and the judicially noticed material proving that Petitioner is fit to practice and without disability.

CONCLUSION

In view of the above, it is respectfully requested that Petitioner's request to this Court for Certiorari be granted to review the Order of June 17, 2001.

Respectfully submitted,

CORNELL D.M. JUDGE CORNISH
(*Counsel Pro Se and Pro Hoc Vice for Petitioner*)
1101 New Hampshire Ave., N.W.
Suite 301
Washington, D.C. 20037
(202) 429-9705

September 11, 2001

APPENDICES

APPENDIX A

IN THE COURT OF APPEALS OF MARYLAND

Misc. Docket AG No. 73

IN THE MATTER OF THE
PETITION FOR REINSTATEMENT OF
CORNELL D. M. JUDGE CORNISH

September Term, 2000

ORDER

Upon consideration of the petition for reinstatement of Cornell D. M. Judge Cornish to the Bar of Maryland, and the answer filed thereto, it is this 17th day of June, 2001

ORDERED, by the Court of Appeals of Maryland, a majority of the Court concurring, that the petition be, and it is hereby, DENIED.

/s/ Robert M. Bell
ROBERT M. BELL
Chief Judge

APPENDIX B

IN THE COURT OF APPEALS OF MARYLAND

Misc. Docket AG No. 11

PETITION TO MODIFY AND TERMINATE INACTIVE STATUS OF ATTORNEY UNDER RULE SEC. 16-714 AND TO REINSTATE CORNELL D.M. JUDGE CORNISH AS ACTIVE

September Term, 1998

ORDER

The Court having considered the petition to modify and terminate inactive status of attorney under Rule Sec. 16-714 and to reinstate Cornell D.M. Judge Cornish as active filed by the petitioner, it is this 12th day of May, 1998,

ORDERED, by the Court of Appeals of Maryland, that the petition to modify and terminate inactive status be, and it is hereby, DENIED.

/s/ Robert M. Bell
ROBERT M. BELL
Chief Judge

APPENDIX C

IN THE COURT OF APPEALS MARYLAND

Misc. Docket AG No. 65

CORNELL D. M. JUDGE CORNISH,
Petitioner,

v.

ALEXANDER L. CUMMINGS, CT CLERK JANET MOSS, ADMINISTRATOR, CLIENTS' SECURITY TRUST FUND AND MELVIN HIRSHMAN, BAR COUNSEL,
Respondents.

September Term, 1997

ORDER

The Court having considered the petition to terminate inactive status and other relief and the response of the Attorney Grievance Commission filed thereto, it is this 15th day of December, 1997

ORDERED, by the Court of Appeals of Maryland, that the petition to terminate inactive status and other relief be, and the same is hereby, DENIED.

/s/ Robert M. Bell
ROBERT M. BELL
Chief Judge

APPENDIX D

IN THE COURT OF APPEALS OF MARYLAND

Misc. Docket (Subtitle BV) No. 44

ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND,
Petitioner,

v.

CORNELL D. CORNISH
Respondent.

September Term, 1995

ORDER

The court having considered the request for dissolution or amendment of inactive status of respondent and the response filed thereto by the Attorney Grievance Commission, it is this 7th day of February, 1996,

ORDERED, by the Court of Appeals of Maryland, that the request for dissolution or amendment of inactive status be, and it is hereby, DENIED.

/s/ Robert C. Murphy
ROBERT C. MURPHY
Chief Judge

APPENDIX E

APPENDIX F

IN THE COURT OF APPEALS OF MARYLAND

Misc. Docket (Subtitle BV) No. 39

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND,
100 Community Place, Suite 3301 No. 39
Crownsville, Maryland 21032,
Petitioner,

v.

CORNELL D. CORNISH,
1101 New Hampshire Ave., N. W. Suite 301
Washington, D.C. 20036,
Respondent.

September Term, 1995

ORDER

This matter came before the Court on a Petition filed jointly by the Attorney Grievance Commission and the respondent, Cornell D. Cornish, for the respondent to be placed on inactive status. The Court having considered the Petition, it is this 4th day of December, 1995,

ORDERED, by the Court of Appeals of Maryland, that the Petition for Inactive Status be and it is hereby GRANTED, and the respondent shall be placed on inactive status from the practice of law, and it is further

ORDERED, that the Clerk of this Court shall remove the name of Cornell D. Cornish from the register of attorneys in this Court and certify that fact to the Trustees of the Clients'

Security Trust Fund and the clerks of all judicial tribunals in this State in accordance with Rule BV13.

/s/ Robert C. Murphy
ROBERT C. MURPHY
CHIEF JUDGE

APPENDIX F

No. 97-1505

In The

Supreme Court of the United States

OCTOBER TERM, 1997

CORNELL D.M. JUDGE CORNISH,
Petitioner,

v.

COURT OF APPEALS OF MARYLAND
and
ATTORNEY GRIEVANCE COMMISSION OF MARYLAND,
Respondents.

On Petition For A Writ of Certiorari
To The Court of Appeals of Maryland

PETITION FOR WRIT OF CERTIORARI

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MAR 12 1998
OFFICE OF THE CLERK
SUPREME COURT, U.S.

CORNELL D.M. JUDGE CORNISH ™
(Counsel Pro Se and Pro Hac Vices For Petitioner)
1101 New Hampshire Ave., N.W.
Suite 301
Washington, D.C. 20037
(202) 429-9705

March 12, 1998

APPENDIX G

MEMORANDUM DECISIONS
Cite as 118 S.Ct. (1998)

No. 97-1505

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523 U.S. 1077, 140 L.Ed.2d 675

CORNELL D. M. JUDGE CORNISH,
Petitioner,

v.

COURT OF APPEALS OF MARYLAND, *et al.*

April 20, 1998.

Petition for writ of certiorari to the Court of Appeals of Maryland denied.

APPENDIX H

ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND

HARRY K. WOLPOFF
CHAIRMAN INQUIRY COMMITTEE

November 9, 1995

PERSONAL AND CONFIDENTIAL

Christopher P. Brown, Esq., Chairman
7420 Balt-Annapolis Blvd
Glen Burnie, MD 21951
78-1880

RE: File No.: 96-35-00-5
Complainant:
Respondent: Cornell Cornish, Esquire

Dear Mr. Brown:

As Chairman of the Inquiry Committee of the Attorney Grievance Commission, I hereby appoint you as Chairman and the following as members of a Panel in the above matter to act pursuant to Rule BV6D:

Judith Billage, Esq.
1833 Forest Drive, S-B
Annapolis, MD 21401
263-8411

Mr. Jean F. Carlton
500 Polling House Road
Harwood, MD 20776
867-3339

A quorum for your panel proceedings shall be three (3).

Upon receipt of this letter, Bar Counsel will forward the file to you. It is recommended that you proceed in the following manner:

1. Within 15 days of receipt of the file, your Panel must determine whether the complaint should be dismissed without a Hearing or proceed to a Hearing. In

the ordinary case, a meeting of the Panel shall be convened within the 15 day period to discuss dismissal or hearing pursuant to Administration and Procedural Guideline §5-102(b). In the event that the Panel determines that the investigation is incomplete, it may request additional investigatory services through the office of Bar Counsel.

2. As soon as the Panel determines to proced with a Hearing, prompt notice of not less than 15 days shall be forwarded to the respondent, again stating the nature of the complaint filed against him, and further advising him of the date, time, and place of the hearing. He shold be advised on his right to be represented by Counsel of his choice, to cross-examine witnesses and to present evidence in his behalf. He should also be informed that the hearing will be conducted, pursuant to the BV Rules and Inquiry Committee's Rules of Procedure, will commence at a time set by the Panel, and will continue until its conclusion except under extraordinary circumstances.

3. In the ordinary case, it is anticipated that the Hearing will be completed within 45 days from the date that the file is received by you pursuant to Administrative and Procedural Guidelines §5-104. An extension of time for the preliminary determination or the hearing date may be approved by the Panel Chairman, with the concurrence of the Vice Chairman for your district, or, in the alternative, by the undersigned as Chairman of the Inquiry Committee. Any further exensions may only be granted by the undersigned, (Guideline §5-104).

4. It is recommended that the Panel prepare its findings of fact and recommendations immediately following presentation of all of the evidence. The Panel should retain the reporter in the room after the witnesses have

departed and dictation orally to the reporter their findings and recommendations if possible and have the reporter transcribe that portion of the record which would then constitute their report or form a basis upon which their report can be written (Guideline § 5-309). The Panel shall file within 15 days with Bar Counsel (Attorney Grievance Commission of Maryland, 100 Community Place, Suite 3301, Crownsville, Maryland 21032-2027) its recommendation, in the prescribed form, the reasons therefor, and any evidence taken in the proceedings. Any member of the Panel who disagrees with the recommendations of the majority may file a written minority report with Bar Counsel (Guideline §5-402).

It is recommended that Panel members review the procedural bulletins issued by the Attorney Grievance Commission and the BV Rules, especially BV6d, in the Maryland Rules of Procedure for further guidance and information.

At the same time your final report is sent to Bar Counsel, please fill in the attached Final Memo form and mail it to the undersigned.

Very truly yours,

ATTORNEY GRIEVANCE COMMISSION

BY: /s/ HARRY K. WOLPOFF, Chairman
Inquiry Committee

HKW/mdh
cc: Melvin Hirshman, Esq., Bar Counsel

ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND

_____

INQUIRY COMMITTEE

Dated:_____

FINAL MEMO TO THE CHAIRMAN,
INQUIRY COMMITTEE

RE: Docket Number: _____
Complainant: _____
Respondent: _____

Name and address of Panel Chairman:

_____
_____
_____

Name and address—Members of Panel taking part in final decision:

Date file received from Bar Counsel _____
Date first meeting of panel: _____
Date hearings were scheduled: _____
Dates hearing took place: _____
Date final report sent to Bar Counsel: _____
Conclusion of Panel (Check appropriate lines(:
____Recommend Dismissal BVd4(a)(i)(i)
____Recommend Dismissal with a Warning BV6d4(a)(i)(i)
____Recommend a Reprimand pursuant to Rule BV6d4(a)(ii)
____Recommend a charges be filed against attorney BV6d4(a)(iii)
____A minority report was also filed BV6d4(a)(iii)

By:_____
Chairman, Inquiry Panel

APPENDIX I

Md Rule BV1i. *Incompetent.*

"Incompetent" means unable to render adequate legal service by reason of mental or physical illness or infirmity, or addiction to or dependence upon an intoxicant or drug.

APPENDIX J

Md Rule BV4a. Disposition.*

(a) Action by Inquiry Panel.

The Inquiry Panel may *dismiss* the complaint without a hearing. Otherwise, the Panel shall conduct a hearing and shall recommend that:

(i) the complaint be dismissed;

(ii) The attorney be reprimanded; or

(iii) charges be filed against the attorney.

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* Note: This is a screening procedure during the informational stage of a disciplinary proceeding.

APPENDIX K

Md Rule BV6d (I). *Inquiry Panel Proceedings.*

1. Generally.

Except as provided by these Rules, *no action except dismissal of the complaint may be taken unless the attorney against whom the complaint has been made has been afforded an opportunity to examine and controvert the complaint and be represented by counsel.* The rules of evidence need not apply at any proceeding before the Inquiry Panel. If the attorney cannot be found after the Inquiry Panel has made reasonable efforts to notify him, the Inquiry Panel may proceed pursuant to this subtitle without complying with the requirements of this section.

APPENDIX L

IN THE COURT OF APPEALS OF MARYLAND

Misc. Docket (Subtitle BV)

No. ___

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND,
100 Community Place
Suite 3301
Crownsville, Maryland 21032,
Petitioner,

v.

CORNELL D. CORNISH,
1101 New Hampshire Avenue, N.W., Suite 301
Washington, D.C. 20037

September Term, 1995

CONSENT TO INACTIVE STATUS

Comes now the Petitioner, the Attorney Grievance Commission of Maryland, and the Respondent, Cornell D. Cornish, and jointly petition this Court to permit the Respondent to be placed on inactive status.

1. Respondent was admitted to the Maryland bar on November 9, 1956.

2. A complaint is pending against Respondent concerning the handling of a patent application and Respondent has taken steps to resolve that matter.

3. During the course of our investigation Respondent has advised that he does not actively engage in practice, occasionally takes some "pro bono" work, but that he suffers lasting affects from open heart surgery in 1982 and he goes to

rehabilitation every day and, rests for some time thereafter. In addition he participates in Al Anon attending three (3) or four (4) meetings a week as well as meeting with a sponsor.

4. Respondent is 66 years of age and currently draws Social Security and a pension from his employment with the federal government.

5. Respondent admits that at the present time he is unable and has no desire to cope with the demands of the practice of law and agrees that it is in his best interest to be placed on inactive status.

WHEREFORE, Petitioner and Respondent pray:

A. That Respondent be placed on inactive status by this Court.

B. This Court that such other and further relief as to the Court shall seem just and proper in this cause.

Cornell D. Cornish 1101 New Hampshire Ave., N.W., Suite 301 Washington, D.C. 20037	Illegible Melvin Hirshman Bar Counsel Attorney Grievance Commission of Maryland 100 Community Place Suite 3301 Crownsville, Maryland 21032

Date:

APPENDIX M

IN THE COURT OF APPEALS OF MARYLAND

Misc. Docket (Subtitle BV) No. 34

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND,
100 Community Place
Suite 3301
Crownsville, Maryland 21032,
Petitioner,

v.

CORNELL D. CORNISH,
1101 New Hampshire Avenue N.W.,
Suite 301
Washington, D.C. 20037

CONSENT TO INACTIVE STATUS

Comes now the Petitioner, the Attorney Grievance Commission of Maryland, and Respondent, Cornell D. Cornish, and jointly petition this Court to permit the Respondent to be place on inactive status.

1. Respondent was admitted to the Maryland bar on November 9, 1956.

2. A complaint is pending against Respondent concerning the handling of a patent application and Respondent has taken steps to resolve the matter.

3. During the course of our investigation Respondent has advised that he does not actively engage in practice, occasionally takes some "pro bono" work, but that he suffers lasting affects from open heart surgery in 1982 and he goes to rehabilitation every day and, rests for some time thereafter. In addition he participates in Al Anon attending three (3) or four (4) meeting a week as well as meeting with a sponsor.

4. Respondent is 66 years of age and currently draws Social Security and a pension from his employment with the federal government.

5. Respondent admits that at the present time he is unable and has no desire to cope with the demands of the practice of law and agrees that it is in his best interest to be placed on inactive status.

WHEREFORE, Petitioner and Respondent pray:

A. That Respondent be placed on inactive status by this Court.

B. This Court take such other and further relief as to the Court shall seem just and proper in this cause.

/s/ Cornell D. Cornish
CORNELL D. CORNISH, ESQ.
1101 New Hampshire Ave., N.W., Suite 301
Washington, D.C. 20036

/s/ Melvin Hirshman*
MELVIN HIRSHMAN
Bar Counsel
Attorney Grievance Commission of Maryland
100 Community Place
Suite 3301
Crownsville, Maryland 21032

11/21/95

Date

* Note: Not originally signed (Xerox copy out-of-date signature)

APPENDIX N

Source: This is a new. Md. Rule 16-736. CONDITIONAL DIVERSION AGREEMENT

(a) When Appropriate

Upon completing an investigation, Bar Counsel may agree to a Conditional Diversion Agreement if Bar Counsel concludes that:

(1) the attorney committed professional misconduct or is incapacitated;

(2) the professional misconduct or incapacity was not the result of any wilful or dishonest conduct and did not involve conduct that could be the basis for an immediate Petition for Disciplinary or Remedial Action pursuant to Rules 16-771, 16-773, or 16-774;

(3) the cause or basis of the professional misconduct or incapacity is subject to remediation or resolution through alternative programs or mechanisms, including (A) medical, psychological, or other professional treatment, counseling, or assistance, (B) appropriate educational courses or programs, (C) mentoring or monitoring services, or (D) dispute resolution programs; and

(4) the public interest and the welfare of the attorney's clients and prospective clients will not be harmed if, instead of the matter proceeding immediately with a disciplinary or remedial proceeding, the attorney agrees to and complies with specific measures that, if pursued, will remedy the immediate problem and likely prevent any recurrence of it.

Committee note: Examples of conduct that may be susceptible to conditional diversion include conduct arising from (A) unfamiliarity with proper methods of law office management, record-keeping, or accounting, (B)

unfamiliarity with particular areas of law or legal procedure, (C) negligent management of attorney trust accounts or other financial matters, (D) negligent failure to maintain proper communication with clients, (E) negligent failure to provide proper supervision of employees, or (F) emotional stress or crisis or abuse of alcohol or other drugs.

(b) Voluntary Nature of Agreement; Effect of Rejection or Disapproval.

Neither Bar Counsel nor an attorney is required to propose or enter into a Conditional Diversion Agreement. The Agreement shall state that the attorney voluntarily consents to its terms and promises to pay all expenses reasonably incurred in connection with its performance and enforcement. If a Conditional Diversion Agreement is proposed and rejected or if a signed Agreement is not approved by the Commission, Bar Counsel may take any other action permitted under this Chapter. Neither the fact that an Agreement was proposed, rejected, or not approved nor the contents of the Agreement may be admitted into evidence.

(c) Terms of Conditional Diversion Agreement

(1) A Conditional Diversion Agreement shall be in writing and signed by Bar Counsel, the attorney, and any monitor designated in the Agreement.

(2) The Agreement shall recite the basis for it, as set forth in section (a) of this Rule. By signing the Agreement, the attorney (A) acknowledges that the attorney has engaged in conduct that constitutes professional misconduct or is currently incapacitated, and (B) warrants that the attorney has not concealed from or misrepresented to Bar Counsel any material facts pertaining to the attorney's conduct or the Agreement.

(3) The Agreement shall state the particular course of remedial action that the attorney agrees to follow and a time for the performance or completion of that action. The Agreement is expressly conditioned on the attorney's not engaging in any further conduct that would constitute professional misconduct and may provide for any program or corrective action appropriate under the circumstances, including:

(A) mediation or binding arbitration of a fee dispute;

(B) restitution of unearned or excessive fees in a stipulated amount;

(C) public apology to designated individuals;

(D) law office management assistance, including temporary or continuing monitoring, mentoring, accounting, bookkeeping, financial, or other professional assistance, and completion of specific educational. programs dealing with law office management;

(E) completion of specific legal education courses or curricula, including courses in legal ethics and professional responsibility;

(E) agreement not to practice in specific areas of the law (i) unless the attorney associates himself or herself with one or more other attorneys who are proficient in those areas, or (ii) until the attorney has successfully completed a designated course of study to improve the attorney's proficiency in those areas;

(G) specific course of treatment for emotional distress, mental disorder or disability, or dependence on alcohol or other drugs; and

(H) stipulated number of hours of pro bono legal services. (4) The Agreement shall provide for a stay of any disciplinary or remedial proceeding pending

satisfactory performance by the attorney. The Agreement may designate either a private monitor engaged at the attorney's expense or Bar Counsel to supervise performance and compliance. The Agreement shall authorize the monitor to request and receive all information and inspect any records necessary to verify compliance and, if a private monitor is selected, to report any violation or noncompliance to Bar Counsel. The Agreement shall specify the fees of any private monitor and the method and frequency of payment of those fees.

(d) Approval by Commission

A Conditional Diversion Agreement is not valid until approved by the Commission. Upon signing the Agreement, Bar Counsel and the attorney shall submit to the Commission the Agreement, any explanatory material that they believe relevant, and any further information that the Commission requests. The Commission may:

(1) approve the Agreement if satisfied that it is reasonable and in the public interest;

(2) disapprove the Agreement if not convinced that it is reasonable and in the public interest; or

(3) recommend amendments the Agreement as a condition of approval, which the parties may accept or reject. If Bar Counsel and the attorney accept the amendments, they shall notify the Commission of the acceptance, and the Commission shall then approve the Agreement. If either party rejects a proposed amendment, the Agreement shall be deemed disapproved.

(e) Amendment of Agreement

A Conditional Diversion Agreement may be amended from time to time in a writing sued by Bar Counsel and the attorney and approved by the Commission.

(f) Revocation of Agreement

(1) Bar Counsel may declare a proposed default on a Conditional Diversion Agreement if Bar Counsel determines that the attorney (A) engaged in further professional misconduct while subject to the agreement, (B) wilfully misrepresented or concealed material facts during the negotiation of the Agreement that induced Bar Counsel to recommend approval of the Agreement, or (C) has failed in a material way to comply with the Agreement. Bar Counsel shall give written notice to the attorney of the proposed default and afford the attorney a reasonable opportunity to refute the determination.

(2) If the attorney fails to refute the charge or to offer an explanation or proposed remedy satisfactory to Bar Counsel, Bar Counsel shall file a petition with the Commission to revoke the Agreement and serve a copy of the petition on the attorney. The attorney may file a written response with the Commission within 15 days after service of the petition. The Commission may act upon the petition and response or may request the parties to supply additional information, in writing or in person.

(3) If the Commission concludes that the attorney is in material default of the Agreement, it shall revoke the Agreement, revoke the stay of the disciplinary or remedial proceeding, and direct Bar Counsel to proceed in accordance with Rule 16-751, or as otherwise authorized by the Rules in this Chapter.

(g) Satisfaction of Agreement

If Bar Counsel determines that the attorney has complied in full with the requirements of the Agreement and that the disciplinary or remedial proceeding should be terminated, Bar Counsel shall inform the Commission and request that the disciplinary or remedial proceeding be terminated. If satisfied with Bar Counsel's recommendation, the Commission shall terminate the disciplinary or remedial proceeding.

(h) Effect of Agreement

(1) Approval by the Commission of a Conditional Diversion Agreement does not constitute discipline.

(2) Except as provided in subsections (h) (4) and (h) (5) of this Rule, the contents of the Agreement are confidential and may not be disclosed.

(3) Upon approval of an Agreement by the Commission, Bar Counsel shall inform the complainant that such an Agreement has been entered into and approved, that the disciplinary or remedial proceeding has been stayed in favor of the Agreement, and that, if the attorney complies with the Agreement, the proceeding will be terminated. The complainant shall also be notified of the potential for and consequences of noncompliance. Except to the extent that the Agreement requires the transfer of property to the complainant or other communication with the complainant, the terms of the Agreement shall not be disclosed.

(4) upon revocation of an Agreement pursuant to section (f) of this Rule, the contents of the Agreement lose their confidentiality and may be disclosed in any ensuing disciplinary or remedial proceeding.

(5) The contents of an Agreement may be disclosed in a subsequent proceeding against the attorney when relevant to a subsequent complaint based on similar misconduct.

Source: This Rule is new.

APPENDIX O

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT Of NEW YORK

[Filed April 11, 1996]

M-2-238

In the Matter of
CORNELL D. M. JUDGE CORNISH,
Suite 301
1101 New Hampshire Ave., N.W.
Washington, D.C. 20037,
Respondent.

ORDER

Pursuant to General Rule 4(e) of this Court, on February 21, 1996, an Order to Show Cause was served on respondent, Cornell D. Cornish, directing him to show cause by March 22, 1996 why he should not be disciplined by this Court pursuant to General Rule 4(g).

This Court has received a submission from respondent in which he advises this Court that he has changed his name from Cornell D. Cornish to Cornell D. M. Judge Cornish. This Order reflects respondent's name change. Further, respondent acknowledges that he has ceased practice in this Court until he is reinstated in the State of Maryland.

Rule 4(g) provides that discipline imposed pursuant to Rule 4(e) may consist of suspension, censure, or in the case of an attorney who is a member of the bar of this Court, it may consist of striking the name of the attorney from the roll.

Therefore, it is hereby directed that respondent Cornell D. M. Judge Cornish be suspended in this Court until such time as he is reinstated to practice in the State of Maryland

SO ORDERED.

/s/ Robert P. Patterson, Jr.
ROBERT P. PATTERSON, JR.
Chairman, Grievance Committee S.D.N.Y.

Dated: New York, New York
April 3, 1996

APPENDIX P

SUPREME COURT OF THE STATES OF NEW YORK
APPELLATE DIVISION:
SECOND JUDICIAL DEPARTMENT

AD2d

GUY JAMES MANGANO, P.J. LAWRENCE J. BRACKEN,
ALBERT M. ROSENBLATT, SONDRA MILLER,
VINCENT PIZZUTO, JJ.

97-11662

In the Matter of Cornell D.M.J. Cornish,
an attorney and counselor-at-law.

Grievance Committee for the Tenth Judicial District, petitioner; CORNELL D.M.J. CORNISH, respondent.

OPINION & ORDER

MOTION by the petitioner pursuant to 22 NYCRR 691.3 to impose discipline upon the respondent based upon disciplinary action taken against him by the Court of Appeals of Maryland. The respondent was admitted to the Bar in the State of New York on June 23, 1982, at a term of the Appellate Division of the Supreme Court in the Second Judicial Department, under the name Cornell D. Cornish.

Frank A. Finnerty, Jr., Syosset, N.Y. (Ruthann E. Geary of counsel), for petitioner.

Cornell D.M.J. Cornish, Washington, D. C., respondent *pro se*.

PER CURIAM.

By order of the Court of Appeals of Maryland dated December 4, 1995, the respondent was placed on inactive status and his name was removed from the register of attorneys in that court.

The respondent way served with notice pursuant to 22 NYCRR 691.3, informing him of his right to interpose certain enumerated defenses to the imposition of reciprocal discipline in New York. The respondent requested a hearing and raised the three defenses to the imposition of reciprocal discipline found in 22 NYCRR 691.3. By decision and order on motion of this court dated March 16, 1998, the Grievance Committee's motion was held in abeyance and the matter was referred to the Honorable Moses M. Weinstein, as Special Referee, for a hearing. The hearing was held on April 23, 1998.

The Special Referee found that the respondent failed to establish any of the defenses to the imposition of reciprocal discipline found in 22 NYCRR 691.3. The Grievance Committee now moves to confirm the Special Referee's report. The respondent cross-moves to disaffirm the Special Referee's report, to dismiss the disciplinary proceeding against him, for summary judgment, and for a new trial.

Based on the evidence adduced at the hearing, we conclude that the Special Referee's determination was proper.

Under the circumstances of this case, the respondent is suspended from the practice of law for a period of five years, and his reinstatement to the New York State Bar is conditioned on his reinstatement to the practice of law in Maryland.

MANGANO, P.J., BRACKEN, ROSENBLATT, MILLER and PIZZUTO, JJ., concur.

ORDERED that the petitioner's motions are granted; and it is further,

ORDERED that the respondent's cross motion is denied; and it is further,

ORDERED that pursuant to 22 NYCRR 691.3, the respondent, Cornell D.M.J. Cornish, is suspended from the practice of law in New York for a period of five years, commencing September 17, 1998, and continuing until further order of this court, with leave to the respondent to apply for reinstatement no sooner than six months prior to the expiration of the said period of five years, upon furnishing satisfactory proof (a) that during the said period he refrained from practicing or attempting to practice law, (b) that he has fully complied with this order and with the terms and provisions of the written rules governing the conduct of disbarred, suspended and resigned attorneys (22 NYCRR 691. 10), (c) that he has otherwise properly conducted himself, and (d) that he has been reinstated to the practice of law in Maryland; and it is further,

ORDERED that the respondent shall promptly comply with this court's rules governing the conduct of disbarred, suspended and resigned attorneys (22 NYCRR 691.10); and it is further,

ORDERED that pursuant to Judiciary Law § 90, during the period of suspension, the respondent, Cornell D.M.J. Cornish, is commanded to desist and refrain from (1) practicing law in any form, either as principal or agent, clerk or employee of another, (2) appearing as an attorney or counselor-at-law before any court, Judge, Justice, board, commission or other public authority, (3) giving to another an opinion as to the law or its application or any advice in relation thereto, and (4) holding himself out in any way as an attorney and counselor-at-law.

97-11662

In the Matter of
Cornell D.M.J. Cornish,
an attorney and counselor-at-law.

Grievance Committee for the Tenth
Judicial District, petitioner;
Cornell D.M.J. Cornish, respondent.

DECISION & ORDER ON MOTION

Motion by the respondent (1) for summary judgment or a new trial, (2) to strike the petitioner's affirmation in opposition to his cross motion, *inter alia*, to disaffirm the Special Referee's report, and (3) to correct and amend the minutes of the hearing before the Special Referee. By letter to the Office of Court Administration dated May 29, 1998, which was forwarded to this court, the respondent requests (1) a certificate of good standing and (2) authorization to perform marriages in the Village of Belle Terre as a retired Justice of the Unified Court System. By opinion and order of this court (*Matter of Cornish*, _____AD2d_____ [decided herewith]), the respondent was suspended from the practice of law for a period of five years.

Upon the papers submitted in support of the motion, and no papers having been submitted in opposition or response thereto, it is

ORDERED that the motion is denied in its entirety; and it is further, ORDERED that the respondent's request for a certificate of good standing is denied; and it is further,

ORDERED that the respondent is directed to reapply directly to the Office of Court Administration with respect to

his application for authorization to perform marriages in the Village of Belle Terre.

MANGANO, P.J., BRACKEN, ROSENBLATT, MILLER and PIZZUTO, JJ., concur.

ENTER:

MARTIN H. BROWNSTEIN
Martin H. Brownstein
Clerk

SUPREME COURT OF NEW YORK
APPELLATE DIVISION SECOND DEPT

I, MARTIN H. BROWNSTEIN, Clerk of the Appellate Division of the Supreme Court, Second Judicial Department, do hereby certify that I have compared this copy with the original filed in my office on AUG 17 1998 and that this copy is a correct transcription of said original.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court on

AUG 17 1998

/s/ Martin H. Brownstein
MARTIN H. BROWNSTEIN

August 17, 1998

MATTER OF CORNISH, CORNELL D.M.J.